In the High Court of Uttaranchal, at Nainital.

F.A. NO. 303-D/2001
(Old No. 230/1991)

The Collector, Haridwar .....Appellant.

Vs

Smt. Hasina W/o Manjura,
R/o Piran Kaliyar Tehsil Roorkee,
District Haridwar ... Respondent.

Hon'ble B.C. Kandpal, J.

This First Appeal, U/S 54 of the Land Acquisition Act, has been preferred against the judgment and award dated 29-10-1990, passed by Additional District Judge, Roorkee, in Land Acquisition Reference No. 129/1989, enhancing the compensation at a flat rate of Rs. 30,000/- per Bigha along with 12% interest for one year and thereafter from 23-1-1988 till the date of payment interest was awarded @ 9% per annum on the enhanced amount. The Reference Court also awarded solatium @ 30%

2- Brief facts of the case are that for the construction of Upri Ganga Nahar at Roorkee, District Haridwar, under the scheme sponsored by World Bank, 151-5-10 Bigha land of village Piran Kaliyar, including the land of the claimant/respondent, was acquired. For this purpose notice U/S 4 of the Land Acquisition Act (hereinafter referred as 'the Act') was issued on 17-1-1987 and he notice U/S 6 for the 'Act' was published on 14-8-1987. Thereafter, the land owners filed objections before the Special Land

Acquisition Officer. The Special Land Acquisition Officer gave his award dated 23-1-1989, awarding a total amount of Rs. 53,71,433-20 P. a compensation.

3- The land owners being dissatisfied with the amount of the compensation, so awarded by the S.L.A.O., preferred reference U/S 18 of 'the Act' before the Addl. District Judge, Roorkee, alleging therein that meager amount of compensation was awarded by the S.L.A.O. The ground taken by them was that the acquired land is a tourist place; there is a 'Mazar' of Sabir Saheb at the disputed land; that four fairs are organized at the disputed place in a year; that people visit there, not only from India but the foreign countries also; that the land was also used for agricultural purposes and that the compensation should be awarded @ Rs. 80,000/- per Bigha. The Collector also field objection before the Reference Court refuting the assertions of the land owners and alleged that the land was used only for agricultural purposes and the S.L.A.O. has rightly awarded the compensation a circle rate.

4- The Reference Court, on the pleadings of the parties, framed the following issues for determination of the dispute:-

1- Whether the compensation, awarded to the claimant is inadequate? If so, then what will be the proper and adequate compensation?.

2- To what relief, if any, the claimant is entitled to get?.

5- The Reference Court has considered the evidence available on record and came to the conclusion that the rate of the disputed land should be @ Rs. 30,000/-.

per Bigha. The claimant was also awarded solatium @ Rs. 30% and interest @ 12% U/S 23(1-A) of 'the Act' up-to one year and thereafter @ 9% U/S 28 of the Act from 23-1-1988.

6- Feeling aggrieved, the State has filed this appeal before the Allahabad High Court, which was transferred to this court, after creation of new State.

7- Heard learned Smt. Beena Pandey, learned Standing Counsel for the appellant and perused the record.

8- The only controversy which arises in this appeal is – whether the flat rate fixed by the Reference Court is just and proper or not?

9- The main contention of the claimant/respondent is that the disputed land has much importance as fairs used to take place there four times in a year and large number of people visit there and the land owners used to earn money by organizing shops on their lands. But from the evidence adduced before the Reference Court, it become obvious that the disputed land is situated on the other side of the canal, some land is 100 meters away, some land is 500 meters award and some land is 100 meters away from the Aabdi. No reliable evidence has been adduced on behalf of the land owners to show that really fairs were organized on the land and it had much utility for organizing shops there. It has been amply proved that the land was being used for agricultural purposes. The S.L.A.O. as well as the Reference Court have chosen exemplar sale deed dated 20-10-84 brought on record by the parties which was sold by Sharif Ahmad at the rate of Rs.

30,000/- per Bigha. The quality of both the land is the same and the land of the exemplar sale deed is adjacent to the disputed land. On the one hand the S.L.A.O. considered the sale deed as just and proper but on the other hand he fixed the cost of the land at circle rate at a low price. The market value of the acquired land has to be determined primarily on the basis of the sale-deeds as provided under the Land Acquisition Act and that too the market value of the land at the date of publication of the notification U/S 4(1) of the Act. In the present case the only sale deed dated 20-10-84 was brought on record which pertains to the year 1984, whereas the land in question was acquired in the year 1987. Both the courts have considered the sale deed dated 20-10-84 as exemplar sale deed and as per the said sale deed the Reference Court was justified in fixing the value of the disputed land@ Rs. 30,000/- per Bigha.

10- It may be mentioned here that the controversy involved in the present appeal has been resolved by this Court vide judgment and order dated 8-6-2006, passed in Defective First appeal No. 413/2001, Special Land Acquisition Officer Versus Rafiqat and another. The said appeal was dismissed on merit. The learned counsel appearing for the State has fairly conceded to this fact. In view of this fact also it is expedient in the interest of justice that this appeal may be dismissed on merit in terms of the earlier judgment of this court aforesaid.

11- For the reasons and discussion aforesaid, the appeal is devoid of merit and is liable to be dismissed.

12- Accordingly the appeal is dismissed. The impugned judgment and order dated 29-10-1990, passed by Additional District Judge, Roorkee, is affirmed. No order as to costs.

(B.C. Kandpal, J.)

Dated:12-9-2006
ISB